

Mr. Frank Barry, Jr.  
County Attorney, Santa Cruz County  
Nogales, Arizona

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**ARIZONA ATTORNEY GENERAL**

Dear Mr. Barry:

We have your letter of August 16, wherein you ask for our opinion on the following question:

" \* \* \* For the purpose of determining the classification of a county and ascertaining the assessed valuation of property therein may Auto Lieu Taxes be included in the total assessed valuation?

*Wilson*

Santa Cruz County is now a fourth class county for salary purposes. In the computation of the total assessed valuation of the county, property subject to Auto Lieu Taxes has not been counted. If it were counted, Santa Cruz County would be a third class county for salary purposes. The Board of Supervisors desires to know whether we may increase valuations by the amounts we excluded, thereby raising the salaries of county employees."

Section 12-703 ACA 1939 provides for the classification of counties for salary fixing purposes. Said section reads in part as follows:

"12-703. Classification of counties for fixing salaries.--For the purpose of fixing the compensations of county and precinct officers, the several counties of the state are classified according to the assessed valuation of their taxable property as fixed and determined upon the assessment and tax rolls of the said counties. \* \* \*" (Emphasis supplied)

Section 73-412 ACA 1939 directs the county assessor to prepare an assessment roll showing taxable property in his county. Section 73-414 of the Code directs the assessor to deliver the assessment roll to the clerks of the several boards of supervisors on or before the 20th day of May of each year. The statute then provides for further proceedings by the boards of supervisors in connection with their duties as a board of equalization and as supervisors for extensions on the tax rolls and tax levies.

Section 73-423 ACA 1939 then provides in part as follows:

" \* \* \* Upon completion of the assessment and tax roll, the chairman of the board of supervisors shall immediately affix thereto, under his hand, a warrant, commanding the county

treasurer to collect from the several persons named in said roll, one-half of the taxes set opposite their respective names, on or before the first Monday in November, and the other one-half on or before the first Monday in May, next following. The board shall immediately charge to the county treasurer, in a book kept for that purpose, the totals of all taxes levied on said roll. The said assessment and tax roll and the cross index shall be delivered to the county treasurer on or before the first Monday in September. \* \* \* (Emphasis supplied)

When the chairman of the board of supervisors signs the warrant provided for in the preceding section, the assessment and tax roll of the county is completed, and it is from this completed assessment and tax roll the classification of the several counties for salary fixing purposes is determined. We are informed the several county assessors do not enter automobiles on the assessment rolls of their counties, probably because of the nature of the tax and the manner of making collections thereof.

Our Supreme Court, in the cases of Lebeck v. State of Arizona, 62 Ariz. 171, 156 Pac. 2d 720 and Santa Fe Trail T. Co. v. Bowles, 62 Ariz. 177, 156 Pac. 2d 722, held that the tax imposed under the amendment to Section 11, Article 9 of the Constitution is a tax in lieu of an ad valorem tax, in the nature of an ad valorem tax.

The method of assessing and collecting the tax and the distribution of same is different from the method of assessing and collecting ad valorem taxes on the assessment and tax roll.

Section 66-201, sub-division F, ACA 1939, designates the county assessors of the several counties an agent of the motor vehicle division of the highway department for the purpose of registering motor vehicles and collecting the taxes on them. Section 66-901 ACA 1939, supplement, provides the method of distributing the taxes collected on motor vehicles.

In registering motor vehicles and collecting taxes thereon, the assessor does not act in his capacity as a county officer, but as an agent of the State Motor Vehicle Division of the Highway Department.

We know as a matter of common knowledge that many vehicles are not registered, and the lieu tax thereon paid, until after the assessment and tax rolls are completed and delivered to the several county treasurers, and we think the

legislature intended that the classification of counties should be fixed and determined as of a day certain, and fixed that date as the day the assessment and tax rolls are completed by the chairman of the board of supervisors, which must be on or before the first Monday of September of each year.

Therefore it is our opinion that classification of a county is determined from the completed tax assessment and roll certified by the chairman of the board of supervisors, as provided in said Section 73-423, supra, and that lieu taxes collected on motor vehicles pursuant to the amendment to Article 9 of our constitution may not be taken into consideration in determining the classification of counties for purposes of fixing salaries of county officers.

Very truly yours,

FRED O. WILSON  
Attorney General

EARL ANDERSON  
Assistant Attorney General

EA:rc